

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MORRIS MESSINGER,)	
)	
Petitioner,)	CASE NO. C05-1249RSM
)	(CR98-204RSM)
v.)	
)	
UNITED STATES OF AMERICA,)	ORDER TRANSFERRING
)	PETITIONER'S MOTION
)	TO NINTH CIRCUIT
)	
Respondent.)	
_____)	

The Court, having reviewed petitioner's motion for relief from judgment (Dkt. #1), the Report and Recommendation of the Honorable Monica J. Benton, United States Magistrate Judge, any objections thereto, and the remaining record, does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation.

(2) This case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals, pursuant to 28 U.S.C. § 1631 and Circuit Rule 22-3(a). Petitioner is advised that this transfer alone does not constitute compliance with 28 U.S.C. § 2244(b)(3) and Circuit Rule 22-3; he must still file a motion for leave to proceed in the Court of Appeals and make the showing required by § 2244(b). Petitioner is referred to this statute and Circuit Rule 22-3 for further information.

(3) The Clerk is directed to close this case and transfer all original documents to the Ninth Circuit Court of Appeals. The Clerk shall, however, retain a copy of the motion and of this

1 Order in the file. The Clerk is directed to send a copy of this Order to petitioner and to Judge
2 Theiler.

3 DATED this 20th day of September, 2005.

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5 /s/ James L. Robart
6 JUDGE JAMES L. ROBART for
7 JUDGE RICARDO S. MARTINEZ
8 United States District Judge
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